IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
MONDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE K.C. BHANU
WRIT PETITION NO : 8875 of 2004

Between:
Qayoom Shaik S/o. Imam Saheb,
Lorry Owner, Hyderabad.

..... PETITIONER

AND

1 The Secretary, Regional Trasnport Authority,
Hyderabad East Zone, Moosarambagh, Hyderabad.
2 The Assistant Secretary, Regional Transport Authority,
Hyderabad East Zone, Moosarambah, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction and more particularly one in the nature of WRIT OF MANDAMUS declaring the impugned notice of the 2nd respondent in SCN NO. 6651/A2/HE/03 dated 18.11.2003 demanding the petitioner to pay a sum of Rs. 8,000/- towards compounding fee for the alleged over-loading by vehicle No. AP-11-T-5327 as illegal, arbitrary, against the Principles of Natural Justice, violative of Articles 14, 19 and 21 of the constitution of India; null and void.

Counsel for the Petitioner: MR.B. PAPA RAO

Counsel for the Respondent Nos 1 and 2: GP FOR TRANSPORT

The Court at the admission stage Made the Following :

ORDER

The petitioner received the impugned notice from the 2nd respondent bearing SCN No. 6651/A2/HE/03 dated 18-11-2003 demanding him to pay a sum of Rs.8,000/- towards compounding fee for the alleged over-loading by vehicle No. AP-11-T-5327. Hence, the present writ petition is filed questioning the same.

The learned Counsel appearing for the petitioner contended that without giving any opportunity to the petitioner, the impugned notice dated 18-11-2003 has been passed, and in the similar circumstances, Division Bench of this Court in Writ Petition No. 23445 of 2003 and Batch, set aside the same and therefore, he prays to allow the writ petition.

The learned Government Pleader for Transport appearing for the respondents contended that the matter is under investigation to collect the necessary material as to whether the offending vehicle was carrying over-load or not and, therefore, he prays to file counter-affidavit.

Admittedly, no notice was given to the petitioner calling for explanation about the over-loading or about the incriminating evidence they have collected. So, in the similar circumstances, Division Bench of this Court directed that the respondents cannot be permitted to proceed further.

Adopting the same reasoning, the impugned notice dated 18.11.2003 is set aside and the respondents are

permitted to follow the procedure and to give a reasonable opportunity to the petitioner calling for his explanation and determine the liability, if any, according to the provisions of the Motor Vehicles Act. After receipt of the explanation from the petitioner, the respondents can pass appropriate orders as per law.

The Writ Petition is disposed of accordingly. In the circumstances, there shall be no order as to costs.

21st June, 2004

Note:

C.C. by tomorrow
(B.O)
bud

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

TO

1. The Secretary, Regional Transport Authority,
   Hyderabad East Zone,
   Moosarambagh, Hyderabad.

2. The Assistant Secretary,

Regional Transport Authority,
Hyderabad East Zone,
Moosarambagh, Hyderabad.

3. 2 CCs to the Government Pleader for Transport,
High Court Buildings, Hyderabad (O.U.T.)

4. 2 CD Copies.